



DEPARTMENT OF JUSTICE

[OLP Docket No. 174]

Arizona Chapter 154 Certification Review; Notice regarding Arizona's June 2022 Response

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice advises the public that the State of Arizona has provided additional information about its capital counsel mechanism, and solicits public comment on that supplemental information.

DATES: Written and electronic comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments received by mail will be considered timely if they are postmarked on or before that date. The electronic Federal Docket Management System (FDMS) will accept comments until Midnight Eastern Time at the end of that day.

ADDRESSES: To ensure proper handling of comments, please reference “Docket No. OLP 174” on all electronic and written correspondence. The Department encourages that all comments be submitted electronically through <http://www.regulations.gov> using the electronic comment form provided on that site. Paper comments that duplicate the electronic submission should not be submitted. Individuals who wish to submit written comments may send those to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section immediately below.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530; telephone (202) 514-8059.

SUPPLEMENTARY INFORMATION: Chapter 154 of title 28 of the United States Code (chapter 154) provides special procedures for federal habeas corpus review of cases brought by

prisoners in State custody who are subject to capital sentences. These special procedures may be available to a State only if the Attorney General of the United States has certified that the State has established a qualifying mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings for indigent capital prisoners. 28 U.S.C. 2261, 2265; 28 CFR part 26.

By letter dated April 13, 2020, the State of Arizona was notified of former Attorney General William Barr's certification of Arizona's capital counsel mechanism under chapter 154, and the statement of certification and supporting analysis (Certification) was published in the Federal Register on April 14, 2020 (85 FR 20705). As permitted by chapter 154, a group of Arizona capital prisoners and the Arizona Federal Public Defender's Office instituted a petition for review of the Certification on April 29, 2020 in the U.S. Court of Appeals for the District of Columbia Circuit. See 28 U.S.C. 2265(c). On February 10, 2021, the U.S. Department of Justice (Department) informed the court that then-Acting Attorney General Monty Wilkinson had determined that aspects of the Certification may benefit from further consideration or further development of the record. On April 28, 2021, the Department moved for a voluntary remand of the Certification to facilitate further development of the administrative record and reconsideration of the Certification by Attorney General Merrick Garland. The court granted that motion on May 26, 2021. *Office of the Federal Public Defender for the District of Arizona v. Garland*, No. 20-1144, Doc. 1900251 (D.C. Cir.).

Thereafter, the Department sent a letter dated October 12, 2021, to Arizona requesting that the State provide answers to a number of questions that had arisen during the Department's ongoing review of the Certification. This notice advises the public that the State of Arizona has submitted additional information in response, in a letter dated June 24, 2022, and solicits public comment on that supplemental information. The correspondence with Arizona, including its letter of June 24, 2022, may be viewed at <https://www.justice.gov/olp/pending-requests-final-decisions>.

Dated: August 18, 2022.

Hampton Y. Dellinger,
Assistant Attorney General.

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